

SENATE NO. 136



AN ACT RELATIVE TO FOOD ALLERGY AWARENESS IN RESTAURANTS

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Chapter 140 of the General Laws is hereby amended by inserting after section 6 the
2 following section:-

3 Section 6B. (a) As used in this section, the term “department” shall mean the department of
4 public health.

5 (b) Every person licensed as an innholder or common victualer, when serving food, shall:

6 (1) prominently display a poster approved by the department relative to food allergy
7 awareness in the staff area. The poster shall provide, but not be limited to, information regarding the
8 risk of an allergic reaction and shall be developed by the department in consultation with the
9 Massachusetts Restaurant Association and the Food Allergy and Anaphylactic Network;

10 (2) include on all menus a notice to customers of the customer’s obligation to inform
11 the server about any food allergies. The department shall develop and approve the language of the

12 notice in consultation with the Massachusetts Restaurant Association and the Food Allergy and
13 Anaphylactic Network; and

14 (3) restaurants with a seating capacity of 50 or more shall have and maintain on the
15 premises a master list of all the ingredients used in the preparation of each food item available for
16 consumption. Said master list, which shall be in a format approved by the department, shall be
17 provided to any consumer upon request. For purposes of complying with this section with respect
18 to food items that are not initially prepared at the restaurant, it shall be acceptable for the restaurant
19 to rely on ingredients information obtained from the manufacturers, vendors or distributors of food
20 to be consumed in the restaurant provided such information from a manufacturer, vendor or
21 distributor is included in the master list of ingredients.

22 (c) A person in charge and certified food protection manager, as those terms are used in the
23 state sanitary code for food establishments, shall, in order to obtain his certification, receive training
24 concerning food allergies. For purposes of this section, the training requirement shall be fulfilled
25 by viewing, as part of an otherwise approved food protection manager course, a video concerning
26 food allergies and upon the review and receipt of approved written materials. The department shall
27 approve the training program, including the video and written materials, in collaboration with the
28 Massachusetts Restaurant Association and the Food Allergy and Anaphylactic Network. The
29 department shall also require that any certified food protection manager examination offered by an
30 accredited program recognized by the department shall include questions concerning food allergies
31 as they relate to food preparation. Any person designated as an alternate person-in charge, as that
32 term is used in the state sanitary code for food establishments, shall, in addition to existing
33 requirements, also be knowledgeable with regard to the relevant issues concerning food allergies as
34 they relate to food preparation.

35 (d) A violation of this section shall be subject to the remedies available under the state
36 sanitary code for food establishments.

37 (e) The department may adopt regulations to carry out this section.

38 (f) This section does not establish or change any private cause of action. This section does
39 not change any duty under any other statute or the common law, except as this section expressly
40 provides.

41 SECTION 2. No earlier than 12 months and no later than 24 months after the effective date
42 of this act, the department of public health, in consultation with the Massachusetts Restaurant
43 Association and the Food Allergy and Anaphylactic Network, shall submit a report to the joint
44 committee on community development and small business, and the clerks of the senate and the
45 house of representatives, which shall include analysis of the impact of this act. The report shall
46 include, but not be limited to, compliance of restaurants with this act, and proposed changes to the
47 act consistent with the public health and welfare.